

## § 80.511

## 40 CFR Ch. I (7–1–13 Edition)

Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, Washington DC, New York (except for the counties of Chautauqua, Cattaraugus, and Allegany), Pennsylvania (except for the counties of Erie, Warren, McKean, Potter, Cameron, Elk, Jefferson, Clarion, Forest, Venango, Mercer, Crawford, Lawrence, Beaver, Washington, and Greene), and the eight eastern-most counties of West Virginia (Jefferson, Berkeley, Morgan, Hampshire, Mineral, Hardy, Grant, and Pendleton).

(2) Alaska.

(h) Pursuant and subject to the provisions of § 80.536, § 80.554, § 80.560, or § 80.561:

(1) Except as provided in paragraph (j) of this section, from June 1, 2007 through May 31, 2010, NRLM diesel fuel produced or imported in full compliance with the requirements of §§ 80.536, 80.554, 80.560, and 80.561 is exempt from the per-gallon sulfur content standard and cetane or aromatics standard of paragraph (a) of this section.

(2) Except as provided in paragraph (j) of this section, from June 1, 2010 through May 31, 2012 for NR diesel fuel and from June 1, 2012 through May 31, 2014 for NRLM diesel fuel produced or imported in full compliance with the requirements of §§ 80.536, 80.554, 80.560, and 80.561 is exempt from the per-gallon standards of paragraphs (b) and (c) of this section, but is subject to the per-gallon standards of paragraph (a) of this section.

(i) The marking requirements of paragraphs (d)(1), (d)(4), (e)(1), (e)(4), (f)(1), and (f)(4) of this section do not apply to heating oil, or, for paragraphs (e)(1) and (e)(4) of this section, diesel fuel designated as LM diesel fuel that is distributed from a truck loading terminal located within the areas listed in paragraphs (g)(1) and (g)(2) of this section and is for sale or intended for sale within these areas, or that is distributed from any other truck loading terminal and is for sale or intended for sale within the area listed in (g)(2) of this section.

(j) The provisions of paragraphs (h)(1) and (h)(2) of this section do not apply to diesel fuel sold or intended for sale in the areas listed in paragraph (g)(1) of this section that is produced or imported in full compliance with the re-

quirements of §§ 80.536 and 80.554 or to diesel fuel sold or intended for sale in the area listed in paragraph (g)(2) of this section that is produced or imported in full compliance with the requirements of § 80.536.

(k) *Beginning June 1, 2014.* All ECA marine fuel is subject to a maximum per-gallon sulfur content of 1,000 ppm.

[69 FR 39168, June 29, 2004, as amended at 70 FR 40895, July 15, 2005; 75 FR 22969, Apr. 30, 2010; 77 FR 61293, Oct. 9, 2012]

### **§ 80.511 What are the per-gallon and marker requirements that apply to NRLM diesel fuel, ECA marine fuel, and heating oil downstream of the refiner or importer?**

(a) *Applicable dates for marker requirements.* Beginning June 1, 2006, all NRLM diesel fuel and ECA marine fuel shall contain less than 0.10 milligrams per liter of the marker solvent yellow 124, except for LM diesel fuel subject to the marking requirements of § 80.510(e).

(b) *Applicable dates for per-gallon standards.* (1) Beginning June 1, 2006, all NRLM diesel fuel must comply with the per-gallon sulfur standard for the designation or classification stated on its PTD, pump label, or other documentation. Based on the provisions of § 80.510(h) and (j), there is no uniform downstream sulfur standard until the downstream dates identified in paragraphs (b)(3) through (b)(8) of this section.

(2) Except as provided in paragraphs (b)(5) and (b)(8) of this section, beginning December 1, 2010, all NRLM diesel fuel must comply with the cetane index or aromatics standard of § 80.510.

(3) Except as provided in paragraphs (b)(5) through (b)(8) of this section, the per-gallon sulfur standard of § 80.510(a) shall apply to all NRLM diesel fuel beginning August 1, 2010 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2010 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2010 for all locations.

(4) Except as provided in paragraphs (b)(5) through (8) of this section, the per-gallon sulfur standard of § 80.510(c)

shall apply to all NRLM diesel fuel beginning August 1, 2014 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2014 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2014 for all locations. This paragraph (b)(4) does not apply to LM diesel fuel produced from transmix that is sold or intended for sale in areas other than in the area listed in § 80.510(g)(2) (*i.e.* Alaska), as provided by § 80.513(f).

(5) For all NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard and the cetane index or aromatics standard of § 80.510(a) shall apply to all NRLM diesel fuel beginning August 1, 2007 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2007 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2007 for all locations.

(6) For all NR diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard of § 80.510(b) shall apply to all NR diesel fuel beginning August 1, 2010 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NR diesel fuel beginning October 1, 2010 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NR diesel fuel beginning December 1, 2010 for all locations.

(7) For all NRLM diesel fuel that is sold or intended for sale in the areas listed in § 80.510(g)(1), the per-gallon sulfur standard of § 80.510(c) shall apply to all NRLM diesel fuel beginning August 1, 2012 for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all NRLM diesel fuel beginning October 1, 2012 for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all NRLM diesel fuel beginning December 1, 2012 for all locations.

(8) The provisions of paragraphs (b)(5) through (b)(7) of this section shall

apply for all NRLM or NR diesel fuel that is sold or intended for sale in the area listed in § 80.510(g)(2), except for NRLM or NR diesel fuel that is produced in accordance with a compliance plan approved under § 80.554.

(9) The per-gallon sulfur standard of § 80.510(k) shall apply to all ECA marine fuel beginning August 1, 2014, for all downstream locations other than retail outlets or wholesale purchaser-consumer facilities, shall apply to all ECA marine fuel beginning October 1, 2014, for retail outlets and wholesale purchaser-consumer facilities, and shall apply to all ECA marine fuel beginning December 1, 2014, for all locations.

(10) For the purposes of this section, distributors that have their own fuel storage tanks and deliver only to ultimate consumers shall be treated the same as retailers and their facilities treated the same as retail outlets.

[69 FR 39169, June 29, 2004, as amended at 75 FR 22969, Apr. 30, 2010; 77 FR 75879, Dec. 26, 2012]

**§ 80.512 May an importer treat diesel fuel as blendstock?**

An importer may exclude diesel fuel that it imports from the requirements under this subpart, and instead may designate such diesel fuel as diesel fuel treated as blendstock (DTAB), if all the following conditions are met:

(a) The DTAB must be included in all applicable designation, credit and compliance calculations for diesel fuel for a refinery operated by the same entity that is the importer. That entity must meet all refiner standards and requirements.

(b) The importer entity may not transfer title of the DTAB to another entity until the DTAB has been used to produce diesel fuel and all refiner standards and requirements have been met for the diesel fuel produced.

(c) The refinery at which the DTAB is used to produce diesel fuel must be physically located at either the same terminal at which the DTAB first arrives in the U.S., the import facility, or at a facility to which the DTAB is directly transported from the import facility.

(d) The DTAB must be completely segregated from any other diesel fuel,